IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.13558 of 2003

Dated: 11-07-2007

Between:

1. K. Joji, s/o Arulappa and 2 others.

... Petitioners

and

1. Andhra Pradesh Road Transport Corporation,
   rep. by its Managing Director,
   Musheerabad,
   Hyderabad and 2 others.

... Respondents

ORDER:

Heard learned counsel for the parties.

2. Petitioners state that the Depot Manager, Eluru, who is arrayed as third respondent issued notice, vide proceedings No.01/259/(1)/2002-ELR, dated 30-01-2002, stating that the Non-Stop service route between Eluru and Vijayawada has been re-surveyed and found that the route length from New Bus Station Complex, Eluru to Pandit Nehru Bus Station, Vijayawada is 62 KMs distance only, instead of 63 K.Ms. as existing and as such, revised route length has been adopted to petitioners' bus with effect from 01-12-2001 and hire charges also being paid for 62 K.Ms only. In the said notice, however,

it was informed that the department wanted to recover the excess amounts paid for that 1 K.M. for the period from
15-07-1999 to 30-11-2001, and if no reply is received within a period of seven days, recovery will be started from the hire charges with effect from 02-01-2002. They also state that they received the notice on 02-02-2002 and offered their explanation on 06-02-2002, but respondents without considering the same started recovery with effect from 02-01-2002. Hence, they approached this Court and filed the present writ petition.

3. In the letter dated 30-01-2002, itself, it is clearly stated that the explanation is to be offered within a period of seven days and if there is no explanation, the recovery will be started with effect from 02-01-2002.
As petitioners have offered their explanation within four days from the date of the receipt of the notice, the authorities are duty bound to consider the same and pass appropriate orders and thereafter may initiate necessary action.

4. Further, it is brought to the notice of this Court by the learned counsel for petitioners that in a batch of writ petitions, wherein the same issue was involved, was disposed of by this Court directing respondents to conduct joint survey with the assistance of the R and B authorities to arrive at the actual distance between Eluru and Vijayawada.

5. In the light of the above discussion, this Court is of the view that the action of respondents in recovering the said amounts from petitioners is definitely arbitrary.

6. Accordingly, the writ petition is disposed of and respondents are directed to conduct joint survey with the assistance of R and B authorities to arrive at the actual distance between Eluru and

Vijayawada. Till such time, the said recovery shall not be given effect to. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.11-07-2007
GLV